



## Computers work for women: Gender differences in e-supported divorce mediation



Katalien N.L. Bollen<sup>a,\*</sup>, Alain-Laurent Verbeke<sup>b</sup>, Martin C. Euwema<sup>a</sup>

<sup>a</sup>University of Leuven, Research Group Work, Organisational and Personnel Psychology, Department of Psychology, Tiensestraat 102, Box 3725, B-3000 Leuven, Belgium

<sup>b</sup>University of Leuven, Institute for Contract Law, Department of Law, Tiensestraat 41, Box 3450, B-3000 Leuven, Belgium

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### ABSTRACT

Despite the increasing use of e-mediated services to settle divorce, research on its effectiveness is limited. In this paper, we investigate the effectiveness of an asynchronous e-supported tool to mediate divorces in the Netherlands. In order to do so, we rely on (a) the number of agreements reached and (objective) (b) with the help of a survey, we ask men and women about their perceptions of justice when involved in an e-mediated divorce (subjective). Results show that in more than 75% of the cases parties reach an agreement. Furthermore, findings indicate that both Dutch men and women evaluate e-supported divorce mediation favorably with high levels of perceived distributive, procedural, interpersonal as well as informational justice. Although men and women do not differ regarding perceptions of distributive and informational justice, women perceive significantly more procedural and interpersonal justice than men. Theoretical and practical implications are discussed.

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### 1. Introduction

Divorce has become a normative life event for many families in Western society, not the least because of its frequency (Hughes & Kirby, 2000). Whereas in Australia at least one out of five marriages ends in divorce (Australian Bureau of Statistics, 2007), in the Netherlands one out of three marriages dissolves (Centraal Bureau voor de Statistiek, 2010). In the United States, 50% to two-thirds of all first marriages are disrupted by separation or divorce (Kreider & Fields, 2001).

During the past few decades, many Western countries implemented a no-fault legislation (the assumption of fault does not have to reside any longer with one of the partners) together with the so called ‘child’s best interest’ standard in deciding on post-divorce arrangements (Baitar, Buysse, Brondeel, De Mol, & Rober, 2012; Beck & Sales, 2001). Reason to do this was based on the observation that post-divorce disagreements may be very costly for the parents but particularly damaging to the children (Cashmore, 2011).

Such developments facilitated in the Netherlands the implementation of the Promotion of Continued Parenting and Proper Divorce Act, which took effect on March 1st, 2009. Under this Act, it is compulsory for divorcing couples with minor children to draw up a

parenting plan which contains agreements in three key areas (division of care and parenting duties, child maintenance, and exchange of information on important issues) and to hand this over to a judge. During this process, parties usually rely on a divorce mediator.

During divorce mediation a neutral third party accepted by both disputants helps parties to discuss issues and fosters mutual understanding of the underlying interests (Kressel, 2006). The mediator has no power to prescribe agreements or outcomes (Wall, Stark, & Standifer, 2001). Rather, the mediator helps the parties to determine what they believe is the best solution for themselves and their children (Goldman et al., 2008). This open and consensual approach makes it more likely to find a mutual acceptable agreement and/or to promote continuity in relations. This may be very important for divorces as divorces not only require legal solutions, but also need solutions on a personal level (recognition, respect, understanding of feelings and thoughts, etc.), something arbitration fails to impact.

In addition to traditional face-to-face mediations, contemporary mediation service providers offer e-supported mediation, going from fully e-supported mediations to mediations which are partly computerized and partly face-to-face (hybrid types). Though increasingly used, empirical research on e-supported divorce mediations is limited and few rigorous tests exist of its effectiveness or its effects on the parties involved; this, in contrast to the vast amount of literature on electronic negotiations (Citera, Beauregard, & Mitsuya, 2005; Friedman et al., 2004) and/or online communication (Valley, Moag, & Bazerman, 1998; Walther, Loh, & Granka, 2005).

\* Corresponding author. Tel.: +32 16 32 59 95.

E-mail addresses: [Katalien.Bollen@ppw.kuleuven.be](mailto:Katalien.Bollen@ppw.kuleuven.be) (K.N.L. Bollen), [Alain.Verbeke@law.kuleuven.be](mailto:Alain.Verbeke@law.kuleuven.be) (A.-L. Verbeke), [Martin.Euwema@ppw.kuleuven.be](mailto:Martin.Euwema@ppw.kuleuven.be) (M.C. Euwema).

In this article, we aim to explore the effectiveness of e-supported divorce mediation. To this end, we do not only rely on the number of agreements reached (objective), but also explore how men and women (who communicate in an asynchronous way to arrange their divorce) evaluate their mediation in terms of distributive, procedural, informational and interpersonal justice (subjective). To test our hypotheses, we ask men and women who made use of an asynchronous online tool to mediate their divorce in the Netherlands, to fill out a survey as soon as they finish their mediation sessions.

The paper is structured as follows: First, we provide the reader with a definition of e-supported mediation. Then, we refer to literature and research on the effects of e-supported communication, its implications for mediation and describe the e-supported mediation tool used in this study. In a subsequent section, we draw upon gender literature as well as justice literature to develop predictions about how men and women may differ in their perceptions of mediation effectiveness. After describing the methods and measurements used to obtain our data, results are discussed in greater depth. Finally, we discuss the practical and theoretical contributions of our study as well as suggestions for future research.

## 2. E-supported mediation

Nowadays, divorcing couples can choose from a wide array of interactive, web-based services and online collaboration software to arrange their divorce. Although increasingly used because of its assumed benefits (faster, cheaper, etc.), research on the effectiveness of e-supported divorce mediation and/or its effects on the parties involved lacks. This is also reflected by literature on online dispute resolution which is rather general and descriptive, leaving out the conditions under which it should be done (Clark, Cho, & Hoyle, 2003; Hornle, 2003; Lodder & Zeleznikow, 2010).

For a long time, people have referred to e-supported communication as a cold, harsh and impersonal medium (Daft & Lengel, 1984; Sproull & Kiesler, 1986), leading to more misunderstandings and conflict escalation than face-to-face communications. Being bereft of visual as well as vocal cues, it would not only lead to more depersonalization and distance, but also facilitate the impulsive expression of (negative) emotions and opinions. In literature, this is known as the online disinhibition effect (Suler, 2004). It is too simple however, to assume that e-supported communication affects interaction always in a negative way. Recent research shows that certain conditions are needed for this effect to take place: (a) people are anonymous to each other (Reicher, Spears, & Postmes, 1995; Walther, 1993); (b) interact in real time and communicate at the same time (Dennis, Fuller, & Valacich, 2008; Giordano, Stoner, Brouer, & George, 2007); and/or (c) hold a competitive attitude towards the other (Swaab, Galinsky, Medvec, & Diermeier, 2012). Especially the combination of a competitive attitude and communicating in real time (synchronous communication; e.g., chat) (accompanied by visual and/or vocal cues) impairs the communication process, resulting in lower chances of achieving an integrative solution (Swaab et al., 2012).

Given that disputants often hold negative and/or destructive emotions and synchronicity facilitates the ease with which people express themselves (impulsively), inappropriate and/or antisocial behavior is easily intensified when disputants communicate in real time (synchronous communication) (McKenna & Bargh, 1999; Morris, Nadler, Kurtzberg, & Thompson, 2002). A great deal of damage can be done in a short amount of time. Also, divorcing parties usually hold a competitive attitude and tend to interpret each other's actions as efforts to dominate and/or exploit, which then inspires them to act in a defensive way (White, Tynan, Galinsky, & Thompson, 2004). For this reason, it may be good to limit immediate

interaction or feedback between the disputants as long as parties are not able to talk in a reasonable, constructive way. This can be done by the use of shuttle diplomacy (during which the mediator travels back and forth between the disputants) (Hoffman, 2011) or the use of a caucus (a private meeting between the mediator and the disputants) during or before the mediation (pre-caucus) (Swaab & Brett, 2007). Although some authors contend that the use of caucus gives the mediator too much power at expense of the parties, these private meetings can be used to provide parties with a safe environment where they can reflect, tell their side of the story and vent their emotions; activities which are pivotal in order to achieve conflict transformation (Jameson, Bodtker, & Linker, 2010; Pesendorfer & Koeszegi, 2006). Likewise, the use of messages which are distributed in time and space (asynchronous communication; e.g., email) (Purdy et al., 2000) may contribute to the mediation process and/or the parties' perceptions. The ability to build time in between messages allows parties a 'cooling off period' before responding to the other party. Disputants can use this extra time to reflect on the situation at hand as well as to rehearse and revise messages. Furthermore, parties are offered the opportunity to express themselves freely without interruptions and/or the pressure of the other party (Raines, 2006). This may make them feel less subject to criticism of others and/or result in greater (perceptions of) equality of participation (Riva, 2002). All this may explain why data show that people who communicate asynchronously react less impulsively and engage less in the uncontrolled expression of strong negative opinions than people who communicate synchronously (Johnson, Cooper, & Chin, 2009; Pesendorfer & Koeszegi, 2006). These findings align well with the assumption of the barrier effect, namely that the spatial and temporal separation as well as the removal of visual and social cues (a barrier), leads to less hostile, competitive behavior and more integrative solutions (Carnevale & Isen, 1986).

In this study, we investigate the effectiveness of fully e-supported divorce mediations that aim to arrange ancillary relief (parenting and financial matters). During this kind of mediation, the discussion between conflict parties as well as the mediator is supported by software, the so-called discussion forum. Via this forum, parties exchange typewritten messages (emails) over time (asynchronous communication) while the mediator acts as a go-between the parties. The forum itself is located in a secure, password-protected environment and messages are automatically stored in the parties' case file. As soon as a new message has been sent via the discussion forum, users receive an e-mail notification. This has the advantage that emails themselves do not contain any confidential mediation information and provides parties with power to control their personal issues. In order to avoid delays or miscommunication, parties are expected to react to each other's statements within a period of 48-h. Not included in this study, are mediations that are complemented by vocal and/or visual cues, mediated by an electronic mediator and/or hybrid mediations which are partly face-to-face and partly online (e.g., the use of an online intake before the joint mediation). Given that real time communication often works counterproductively in situations in which parties hold competitive attitudes, we assume that the use of asynchronous e-supported communication may be effective when dealing with divorce mediations.

## 3. The effectiveness of e-supported mediation: Justice perceptions of men and women

To measure mediation effectiveness, studies often rely solely on the success ratio of signed agreements (Lipsky, Seeber, & Fincher, 2003). Nowadays however, there is consensus that the single reliance on objective indicators is far too limited: reaching an

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